

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Marlin Elrico Coffy, Sr.,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 2:23-cv-3567-BHH
v.	)	
	)	
Detective J. Ballentine,	)	
	)	<b><u>ORDER</u></b>
	)	
Defendant.	)	
_____	)	

This matter is before the Court for review of the Report and Recommendation (“Report”) of United States Magistrate Judge Mary Gordon Baker, which was made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 for the District of South Carolina. In her Report, which was filed on August 14, 2023, the Magistrate Judge recommends that the Court summarily dismiss this case without prejudice and without giving Plaintiff leave to amend, explaining that Plaintiff lacks standing to allege a Fourth Amendment violation based on the search of Plaintiff’s stepdaughter’s phone and that the requested relief is not available pursuant to 42 U.S.C. § 1983. (ECF No. 6.) Attached to the Report was a notice advising Plaintiff of his right to file written objections to the Report within fourteen days of receiving a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may

also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. In the absence of specific objections, however, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because Plaintiff has failed to file objections, it appears that he no longer wishes to pursue this action. Furthermore, because no objections have been filed, the Court has reviewed the Magistrate Judge’s findings and recommendations for clear error. Finding none, the Court hereby adopts and incorporates the Magistrate Judge’s Report (ECF No. 6), and for the reasons set forth in the Report, the Court dismisses this action without prejudice, without leave to amend, and without issuance and service of process.

**IT IS SO ORDERED.**

/s/Bruce H. Hendricks  
United States District Judge

September 7, 2023  
Charleston, South Carolina